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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,359

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Claude Dal Farra

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EXAMINER

DAVIS, DEBORAH A

ART UNIT

PAPER NUMBER

1655

MAIL DATE

DELIVERY MODE

09/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,359

Applicant(s)

DAL FARRA ET AL.

Examiner

Deborah A. Davis

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☒ Claim(s) 29-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 29-36 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The instant claim 29 depends on a cancelled claim and therefore claims 30-36 depends on cancelled claim 29.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "the extract is dissolved beforehand" and "the extract is beforehand dissolved" in claims 31-32 are vague because it is unclear as to what these limitations mean.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-24, 28, and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Wohlman et al (US 6,306,906).

A method for treating keratin substrate comprising applying an effective amount of at least a cotton honey dew extract or composition is apparently claimed.

The reference of Wohlman et al discloses a process for conditioning (i.e. treating) hair and skin, which are keratin substrates comprising a product of meadowfoam oil composition that includes cottonseed oil (i.e. extract) derived from cotton (*Gossypium hirsutum*), which is the botanical name for cotton honeydew (See abstract, and column 4, lines 59-67, e.g.). Therefore, the composition will inherently protect skin and hair against all types of external aggressions, keratin substrates synthesis, reinforce cutaneous barriers, natural or synthetic fibers, by treating skin and hair with the disclosed composition.

Therefore the reference is deemed to anticipate the instant claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-28 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlman et al in view of Kosuge et al (JP10025240).

The teachings of Wohlman et al are set forth above but does not teach that the cotton honeydew extract contains sugars such as glucose, fructose, saccharose, trehalose, melezitose, trehalulose and inositol.

The reference of Kosuge et al beneficially teaches a bath composition comprising one or more sugars preferably glucose, fructose, saccharose, trehalose and others therein useful for having moisturizing effects and a remedy prophylactic to skin diseases and atopic dermatitis (See abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further include in the composition of Wohlman et al the sugars taught by Kosuge et al because of the beneficial advantages that they are therapeutic to the skin. Further, such sugars are known in the art to be in skin treating compositions. The adjustment of particular conventional working conditions (i.e. percentages by weight of individual sugars) is deemed merely a matter of judicious selection and routine optimization, which is well within the purview of the skilled artisan.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was prima facie obvious to one of

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ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of the evidence to the contrary.

Claims 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohlman et al.

The teaching of Wohlman et al are set forth above but does teach particular percentages by weight of the cotton honeydew composition.

The reference of Wohlman et al beneficially teaches cosmetically or pharmaceutically acceptable solvents such as triglycerides from coconut oil, meadowfoam oil, corn oil and others therein (i.e. vegetable oil) wherein the composition is reconstituted. The composition is also dissolved in Beeswax, which is a polymeric wax and appear to meet the limitation of a cosmetic vector (See column 5, lines 10-17, examples 1-33, e.g.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust particular conventional working conditions (i.e. percentages by weight of the total composition) is deemed merely a matter of judicious selection and routine optimization, which is well within the purview of the skilled artisan.

From the teachings of the reference, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was prima facie obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the reference, especially in the absence of the evidence to the contrary.

Conclusion

No claims are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah A. Davis whose telephone number is (571) 272-0818. The examiner can normally be reached on 8-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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D.A.D.

Deborah A. Davis
Patent Examiner
Art Unit 1655
September 2007



CHRISTOPHER R. TATE
PRIMARY EXAMINER